

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 2372 - SB 2234

February 6, 2012

SUMMARY OF BILL: Expands the meaning of “intangible expense” for the purpose of franchise and excise tax law to mean interest expenses directly or indirectly allowed as deductions or costs in determining federal taxable income on a separate entity basis to the extent such interest expenses are directly or indirectly for, related to, or in connection with the direct or indirect acquisition, maintenance, management, ownership, sale, exchange, or disposition of intangible property. Changes the meaning of “net earnings” and “net losses” for the purpose of franchise and excise tax law to account for the expanded definition of “intangible expense”, which effectively authorizes certain intangible expenses to be subtracted from the net earnings or net losses of certain taxpayers, if approved by the Commissioner of Revenue. Requires the Commissioner to assess penalties equal to the greater of \$10,000 or 50 percent of any adjustment to the initially filed returns, when any taxpayer has negligently failed to comply with the requirements established by this bill.

ESTIMATED FISCAL IMPACT:

Increase State Revenue - \$12,500,000

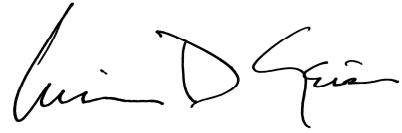
Assumptions:

- According to the Department of Revenue (DOR), the provisions of this bill would, in certain circumstances, require the Commissioner of Revenue to approve an application before a taxpayer would be eligible to deduct intangible expenses from taxable income.
- As a result of certain taxpayers being required to file an application with DOR in order to receive approval for a qualified deduction of intangible expense, taxable income of multiple taxpayers, as it applies to franchise and excise tax will increase. Therefore, franchise and excise tax collections should increase as a result of this bill.
- According to DOR, and based upon a query of the Department of Revenue data-warehouse, the Department indicates a recurring increase in state revenue exceeding \$12,500,000. The Fiscal Review Committee staff does not have access to the data and information upon which this calculation is based and cannot independently verify its accuracy.

- Based on the potential size of penalty for non-compliance, it is anticipated that taxpayers would embrace compliance at a level that any increase in state revenue from penalties would be not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" written in a larger, more prominent script than the last name "Geise".

Lucian D. Geise, Executive Director

/rnc